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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,892	06/20/2002	Roland Andree	Mo-6081/LcA 33,132	7139

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BAYER CROPSCIENCE LP  
100 BAYER ROAD  
PITTSBURGH, PA 15205

EXAMINER
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FORD, JOHN M

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 04/11/2003

124

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/20092

Applicant(s)

Andrew Dal

Examiner

J.M. Ford

Group Art Unit

1624

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on March 11, 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-10, 15, 18 and 19 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-10, 15, 18 and 19 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Other Examination A

Office Action Summary

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Applicants' response of March 11, 2003, is noted.

The claims in the application are claims 1--10, ~~15~~, 18 and 19.

Claim 1 is rejected under 35 U.S.C. 112, 2nd paragraph. Note the last line of claim 1.

What does it mean? X can also have different unknown meanings from those indicated, I cannot allow that.

A compound of the formula (1) --is recommended for claim 1, line 1. The plural 's' on uracils creates a claim that reads on mixtures of uracils, rather than one at a time, alternative, claiming.

Substituted, line 1 suggests further unknown substitution. General formula can be considered indefinite in that it is generally of the formula rather than exactly of the formula.

The whole series of the variable "represent" is little more than denotes, and does not flat out say what R1 is, for instance.

Claims 2--10 and 15 are rejected for the reasons, noted above, <sup>plus</sup> "characterized" is a general term, rather than a specific term.

Claims 18 and 19 are rejected, as they are dependent on a rejected claim.

Optionally substituted is used throughout the claim 1. The Supreme Court objected to the open nature of 'substituted' in 1928 in *Corona v. Dovan* 1928 C.D. 253; 276 U.S. 358.

Alkyl, alone or in a combined term, is not limited from infinity in its hydrocarbons <sup>which</sup> would be waxes and tars. The utility here is herbicidal.

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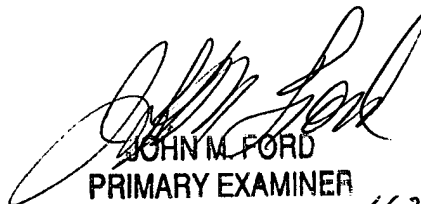
Organic solvents would be necessary to dissolve the waxes and tars so that they could be dispersed on fields. This is not only expressive, but the organic solvents probably would kill the plants.

No 1449 form is noted.

Priority is needed back through the German Priority here. See Enclosure <sup>Printout</sup> ~~A~~ the CAS-on-line. Please provide ~~e~~ certified English translations of the German Priority documents.

John M. Ford:jmr

April 7, 2003

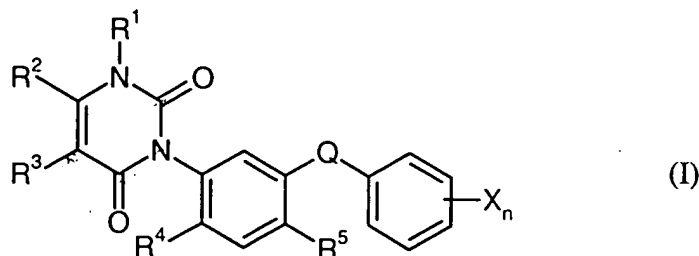
  
JOHN M. FORD  
PRIMARY EXAMINER  
GROUP - ART UNIT 1624

5 alkylcarbonyloxy, alkoxy carbonyloxy, alkylaminocarbonyloxy, dialkylaminocarbonyloxy, phenylcarbonyloxy, alkylcarbonylamino, alkoxy carbonylamino, alkylsulphonylamino, alkenyl, alkenyloxy, alkenyloxy carbonyl, alkynyl, alkynyloxy or alkynyloxy carbonyl, where, in the event that n is greater than 1, X in the individual compounds which are possible can also have different meanings from those indicated.

- 10 2. Substituted phenyluracils according to Claim 1, characterized in that
- n represents the numbers 0, 1, 2, 3 or 4,
- Q represents O (oxygen), S (sulphur), SO, SO<sub>2</sub>, NH or N(C<sub>1</sub>-C<sub>4</sub>-alkyl),
- 15 R<sup>1</sup> represents hydrogen, amino, or C<sub>1</sub>-C<sub>4</sub>-alkyl which is optionally substituted by cyano, carboxyl, fluorine, chlorine, C<sub>1</sub>-C<sub>4</sub>-alkoxy or C<sub>1</sub>-C<sub>4</sub>-alkoxy-carbonyl,
- 20 R<sup>2</sup> represents carboxyl, cyano, carbamoyl, thiocarbamoyl, or represents C<sub>1</sub>-C<sub>4</sub>-alkyl or C<sub>1</sub>-C<sub>4</sub>-alkoxy-carbonyl, each of which is optionally substituted by cyano, fluorine, chlorine or C<sub>1</sub>-C<sub>4</sub>-alkoxy,
- 25 R<sup>3</sup> represents hydrogen, fluorine, chlorine, bromine, or represents C<sub>1</sub>-C<sub>4</sub>-alkyl which is optionally substituted by fluorine or chlorine,
- R<sup>4</sup> represents hydrogen, cyano, carbamoyl, thiocarbamoyl, fluorine, chlorine or bromine,
- 30 R<sup>5</sup> represents cyano, carbamoyl, thiocarbamoyl, fluorine, chlorine, bromine, or represents C<sub>1</sub>-C<sub>4</sub>-alkyl or C<sub>1</sub>-C<sub>4</sub>-alkoxy, each of which is optionally substituted by fluorine and/or chlorine, and

Patent Claims

1. Substituted phenyluracils of the general formula (I)



in which

n represents the numbers 0, 1, 2, 3, 4 or 5,

Q represents O (oxygen), S (sulphur), SO, SO<sub>2</sub>, NH or N(alkyl),

R<sup>1</sup> represents hydrogen, amino or optionally substituted alkyl,

R<sup>2</sup> represents carboxyl, cyano, carbamoyl, thiocarbamoyl or in each case optionally substituted alkyl or alkoxycarbonyl,

R<sup>3</sup> represents hydrogen, halogen or optionally substituted alkyl,

R<sup>4</sup> represents hydrogen, cyano, carbamoyl, thiocarbamoyl or halogen,

R<sup>5</sup> represents cyano, carbamoyl, thiocarbamoyl, halogen or in each case optionally substituted alkyl or alkoxy, and

X represents hydroxyl, mercapto, amino, nitro, cyano, carboxyl, carbamoyl, thiocarbamoyl, halogen, or represents in each case optionally substituted alkyl, alkoxy, alkylthio, alkylsulphinyl, alkylsulphonyl, alkylamino, dialkylamino, alkylcarbonyl, alkoxycarbonyl, alkylaminocarbonyl, dialkylaminocarbonyl,